

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3

4 Giovanni Kurtze,  
5 Plaintiff

6 v.

7 Joseph Lombardo, et al.,  
8 Defendants  
9

2:17-cv-02428-JAD-NJK

**Order Dismissing Case**

10 Pro se plaintiff and Clark County prisoner Giovanni Kurtze brings civil-  
11 rights claims under 42 U.S.C. § 1983 against a Clark County sheriff and three  
12 Clark County Detention Center correctional officers, alleging illegal strip searches  
13 and personal mail destruction.<sup>1</sup> On September 19, 2017, Magistrate Judge Nancy  
14 Koppe ordered Kurtze to file a completed application to proceed *in forma pauperis*  
15 or pay the full \$400.00 filing fee by October 19, 2017.<sup>2</sup> The deadline has now  
16 expired, and Kurtze has taken no action to comply with or otherwise respond to  
17 Judge Koppe's order.

18 District courts have the inherent power to control their dockets, and “[i]n the  
19 exercise of that power, they may impose sanctions including, where appropriate . . .  
20 dismissal” of a case.<sup>3</sup> A court may dismiss an action with prejudice based on a  
21 party's failure to prosecute an action, failure to obey a court order, or failure to  
22 comply with local rules.<sup>4</sup>

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24 <sup>1</sup> ECF No. 1-1.

25 <sup>2</sup> ECF No. 3 at 2.

26 <sup>3</sup> *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986).

27 <sup>4</sup> *See Ghazali v. Moran*, 46 F.3d 52, 53–54 (9th Cir. 1995) (dismissal for  
28 noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260–61 (9th

1 In determining whether to dismiss an action for lack of prosecution, failure to  
2 obey a court order, or failure to comply with local rules, the court must consider  
3 several factors: (1) the public's interest in expeditious resolution of litigation; (2) the  
4 court's need to manage its docket; (3) the risk of prejudice to the defendants; (4) the  
5 public policy favoring disposition of cases on their merits; and (5) the availability of  
6 less drastic alternatives.<sup>5</sup>

7 The first two factors weigh in favor of dismissal. The risk-of-prejudice factor  
8 also weighs in favor of dismissal because a presumption of injury arises from the  
9 occurrence of unreasonable delay in filing a pleading ordered by the court or  
10 prosecuting an action.<sup>6</sup> Although the fourth factor weighs against dismissal, that  
11 one factor is greatly outweighed by the others. Finally, a court's warning to a party  
12 that his failure to obey the court's order will result in dismissal satisfies the  
13 "consideration of alternatives" requirement.<sup>7</sup> Judge Koppe ordered Kurtze to file a  
14 complete pauper application or pay the full filing fee by October 19, 2017, otherwise  
15 "dismissal of this action may result."<sup>8</sup> Kurtze had adequate warning that dismissal  
16 would result from his noncompliance with the court's order.

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18 Cir. 1992) (dismissal for failure to comply with an order requiring amendment of  
19 complaint); *Carey v. King*, 856 F.2d 1439, 1440–41 (9th Cir. 1988) (dismissal for  
20 failure to comply with local rule requiring pro se plaintiffs to keep court apprised of  
21 address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th Cir. 1987)  
22 (dismissal for failure to comply with court order); *Henderson v. Duncan*, 779 F.2d  
1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and failure to comply  
with local rules).

23 <sup>5</sup> *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423–24; *Malone*, 833 F.2d at  
24 130; *Ferdik*, 963 F.2d at 1260–61; *Ghazali*, 46 F.3d at 53.

25 <sup>6</sup> *See Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976).

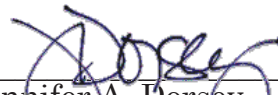
26 <sup>7</sup> *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132–33; *Henderson*, 779 F.2d at  
27 1424.

28 <sup>8</sup> ECF No. 3 at 2.

1           Accordingly, IT IS HEREBY ORDERED that this action is **DISMISSED**  
2 without prejudice based on Kurtze's failure to file an application to proceed *in forma*  
3 *pauperis* or pay the full filing fee in compliance with this Judge Koppe's September  
4 19, 2017, order.

5           The **Clerk of Court** is directed to **ENTER JUDGMENT** accordingly and  
6 **CLOSE THIS CASE.**

7           DATED: October 27, 2017.

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Jennifer A. Dorsey  
United States District Judge